

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOE CURTIS HARRIS,

Plaintiff,

v.

DERRICK CUNNINGHAM, et al.,

Defendants.

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CIVIL ACTION NO. 2:18-CV-1032-WHA

RECOMMENDATION OF THE MAGISTRATE JUDGE

Joe Curtis Harris initiated this 42 U.S.C. § 1983 action challenging conditions at the Montgomery County Detention Facility. Upon receipt of this case, the court entered an order of procedure requiring that the defendants respond to the complaint. Doc. 3. The Clerk mailed a copy of this order to Harris at the last address he provided for service.¹ The postal service returned this order as undeliverable because Harris no longer resided at the Montgomery County Detention Facility.

Based on the returned mail, the court entered an order requiring Harris to inform the court of his current address on or before January 28, 2019. Doc. 10. This order “specifically cautioned [Harris] that if he fails to respond to this order the Magistrate Judge will recommend that this case be dismissed due to his failure to keep the court apprised of his current address and because, in the absence of such, this case cannot proceed before this court in an appropriate manner.” Doc. 10. As of the present date, the court has received no response from Harris to the aforementioned order nor has he provided the court with his

¹The last address provided to the court by Harris is the Montgomery County Detention Facility.

current address as is necessary to proceed in this case. The court therefore concludes that this case should be dismissed.

The court has reviewed the file to determine whether a less drastic measure than dismissal is appropriate. *See Abreu-Velez v. Board of Regents of Univ. System of Georgia*, 248 F. App'x 116, 117–18 (11th Cir. 2007). After such review, the court finds that dismissal of this case is the proper course of action. Initially, the administration of this case cannot properly proceed in the plaintiff's absence. It likewise appears that since his release from the Montgomery County Detention Facility Harris is no longer interested in the prosecution of this case as he has not contacted the court. Finally, it appears that any additional effort by this court to secure Harris' compliance would be unavailing and a waste of this court's scarce judicial resources. Consequently, the undersigned concludes that this case is due to be dismissed. *See Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (holding that, as a general rule, where a litigant has been forewarned dismissal for failure to obey a court order is not an abuse of discretion.). The authority of courts to impose sanctions for failure to prosecute or obey an order is longstanding and acknowledged by Rule 41(b) of the Federal Rules of Civil Procedure. *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962). This authority empowers the courts "to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Id.* at 630–31; *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (holding that a "district court possesses the inherent power to police its docket."). "The sanctions imposed [upon dilatory litigants] can range from a simple reprimand to an order dismissing the action with or without prejudice." *Id.*

For the above stated reasons, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for Plaintiff's failure to provide the court with a current address.

On or before **February 19, 2019**, Plaintiff may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which he objects. Frivolous, conclusive or general objections will not be considered by the District Court. Plaintiff is advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11TH Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this 5th day of February, 2019.

/s/ Charles S. Coody

UNITED STATES MAGISTRATE JUDGE